

### Remarks

In the subject Action, the Examiner rejected claims 26-27, 30, and 33 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Pat. No. 6,368,252 (the '252 patent). Applicant respectfully traverses this rejection for the reasons set forth below.

Generally speaking, claims 1-4 of the '252 patent recite an exercise apparatus having two links, a foot support, and a resistance device interconnected in a manner that imposes progressively increasing resistance against movement of the foot support toward the floor surface.

Generally speaking, claims 26-37 of the subject application recite an exercise apparatus having two members, a foot support, and a locking means that cooperate to constrain movement of the foot support through one of two alternative paths (by alternatively locking the two members).

The claims of the subject application do not recite any sort of progressive resistance, and the claims of the '252 patent do not recite any sort of locking means.

Next, the Examiner rejected claims 26-27, 30, and 33 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Pat. No. 6,152,859 (the '859 patent). Applicant respectfully traverses this rejection for the reasons set forth below.

Generally speaking, claims 1-23 of the '859 patent recite an exercise apparatus having left and right leg driven members, left

and right arm driven members, and means or pins for switching between three different modes of operating the arm driven members relative to the leg driven members.

As noted above, claims 26-37 of the subject application recite an exercise apparatus having two members, a foot support, and a locking means that cooperate to constrain movement of the foot support through one of two alternative paths (by alternatively locking the two members).

The claims of the subject application do not recite any sort of multi-mode arm members, and the claims of the '859 patent do not recite any sort of locking means associated with the paths of the foot supports.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the double patenting rejections. If it would be helpful in any way, the Examiner is always welcome to contact Applicant's undersigned representative to discuss any matter regarding this application.

Respectfully submitted,

  
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